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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

GEORGE N. ALLEN, et al.,  
Plaintiff,  
vs.  
MAYBERG, et al.,  
Defendants.

1:06-cv-01801-AWI-GSA-PC

**ORDER DENYING MOTION TO RECUSE AS  
MOOT  
(ECF No. 275.)**

**I. BACKGROUND**

Jackie Robinson (“Plaintiff”) is proceeding with counsel in this civil rights action pursuant to 42 U.S.C. § 1983. On December 12, 2018, Plaintiff filed a motion to recuse the assigned Judge B. Lynn Winmill, Chief District Judge for the District of Idaho, as district judge in this case pursuant to 28 U.S.C. § 144. (ECF No. 275.) Plaintiff states that he would prefer that this case be reassigned to a judge sitting in the State of California.

**II. BIAS OR PREJUDICE OF JUDGE -- 28 U.S.C. § 144**

Federal statute 28 U.S.C. § 144 provides that: “Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge *before whom the matter is pending* has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.” 28 U.S.C. § 144 (emphasis added).

1 Plaintiff's motion is moot because this case is no longer pending before Chief District  
2 Judge B. Lynn Winmill. On November 27, 2018, this case was reassigned *from* Chief District  
3 Judge B. Lynn Winmill and Magistrate Judge Larry M. Boyle, *to* District Judge Anthony W.  
4 Ishii and Magistrate Judge Gary S. Austin. (Court Docket.) Judges Ishii and Austin are both  
5 judges for the United States District Court, Eastern District of California. Therefore, Plaintiff's  
6 motion is moot and shall be denied as such.

7 **III. CONCLUSION**

8 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion to recuse  
9 Chief District Court Judge Lynn B. Winmill and reassign the case to another district judge  
10 pursuant to 28 U.S.C. § 144, filed on December 12, 2018, is DENIED as moot.

11 IT IS SO ORDERED.

12  
13 Dated: December 13, 2018

/s/ Gary S. Austin  
14 UNITED STATES MAGISTRATE JUDGE